

EXHIBIT 3

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1

2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK

4 -----x

5 SHORELINE AVIATION, INC.,
6 Plaintiff,

7

-against-

Case No.
2:20-cv02161
JMA-SIL

8

9 CYNTHIA L. HERBST, SOUND AIRCRAFT
10 FLIGHT ENTERPRISES, INC., RYAN A.
11 PILLA, BLADE URBAN AIR MOBILITY,
12 INC., a/k/a FLY BLADE, INC., MELISSA
13 TOMKIEL, and ROBERT S. WIESENTHAL,

14

Defendants.

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16

17

18

March 30, 2022

19

8:30 a.m.

20

Virtual Zoom

21

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25

CONTINUED DEPOSITION of SHORELINE
AVIATION, INC., the Plaintiff herein, by ANDREA
COLLINGWOOD, taken by the Defendants, pursuant
to Rule 30(B)(6) of the Federal Rules of Civil
Procedure, and Notice, held at the
above-mentioned time and place, before Susan
Crane, a Notary Public of the State of New York.

1 A. Collingwood
2 to pay commission from flights to Ms. Herbst,
3 correct?

4 A That's correct, we had to pay
5 employees instead.

6 Q You allege that Ms. Herbst is
7 responsible for you needing to hire persons?

8 A Yes.

9 Q Can you tell us why Ms. Herbst is
10 responsible for you hiring persons?

11 A Because she didn't fulfill her
12 contractual obligations to us.

13 Q She was required to --

14 A She took the commissions and she
15 did not book the flights or the passengers. She
16 instead lied to them and diverted the customers
17 to Blade.

18 Q I'm asking about the allegation
19 that you had to hire staff. Can you tell us
20 what you did that required you to hire staff?

21 A Well, they had to answer the
22 phone. They had to book the flights, create the
23 manifests. We hired I think there were four
24 different people, one of whom was to work on the
25 dock, something we hadn't had to do before, just

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1 A. Collingwood

2 to prevent Blade from trying to solicit our
3 customers. In the document it says that there's
4 \$238,000 to replace the staff.

5 Q Would she be obligated to work for
6 Shoreline forever?

7 A We had an indefinite agreement.
8 Cindy never notified us that she wasn't going to
9 fulfill her obligations to us. She took the
10 commission money.

11 Q I'm not asking about the
12 commission money for the flights she booked.
13 I'm trying to understand the obligation to
14 replace staff. Was Ms. Herbst obligated to work
15 for Shoreline forever?

16 A Well, she had to give us
17 reasonable notice if she wasn't going to, and
18 she never did that.

19 Q What is reasonable notice? How
20 long is that?

21 A Well, I would assume it would be
22 at least a month or more.

23 Q What is that assumption based on?

24 A Just business.

25 Q Did you ever discuss with

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1 A. Collingwood

2 Ms. Herbst what you considered to be reasonable
3 notice?

4 A I did not. I don't know what she
5 discussed with my husband.

6 Q If Ms. Herbst had told you on
7 April 1, 2018, that she no longer wanted to work
8 with you, wouldn't you need to have to hire
9 people to replace Ms. Herbst?

10 A If she had informed us --

11 MR. KRIEGSMAN: Objection;
12 calls for speculation. Go ahead
13 and answer.

14 A If she had notified us that she
15 wasn't going to fulfill the terms of her job, we
16 would have had to find a replacement.

17 Q Ms. Herbst wasn't responsible for
18 the replacement of your staff?

19 A She is responsible for having not
20 notified us when she took our customer list and
21 sold it to our competitor.

22 Q If she had given you notice
23 earlier, you would have needed to hire the same
24 people, correct?

25 MR. KRIEGSMAN: Objection;

Page 301

1 A. Collingwood
2 calls for speculation.

3 A If she had given us notice? Is
4 that what you are asking me?

5 Q Yes, Ms. Collingwood.

6 A If she had given us notice, then
7 we would have had to replace her.

8 Q Going back to 121, am I correct
9 that in 2019 Shoreline started working together
10 with Cape Air?

11 A Yes, that's correct.

12 Q And started using the TakeFlite
13 system to book customers; is that correct?

14 A We started to use the Cape flights
15 right after Cindy left us. That was the summer
16 of 2018.

17 Q Do you know if any of the decrease
18 in revenue between 2017 and 2019 was caused by
19 customers who decided they didn't want to fly
20 with Cape Air?

21 A Well, we were still offering
22 Shoreline Aviation and the same staff was in
23 place.

24 Q Do you know if there were
25 customers that no longer decided to fly with

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1 A. Collingwood

2 Shoreline and was then working with Cape Air?

3 A No.

4 Q Do you know if any customers
5 didn't want to book with Shoreline because they
6 didn't like the TakeFlite system?

7 A I don't think that had any impact
8 on the customers.

9 Q Are you familiar with the concept
10 of loads?

11 A Loads?

12 Q Isn't that the amount of flights
13 that are available?

14 A Yes.

15 Q When you have less loads or less
16 flights available, you can fly less people,
17 correct?

18 A Actually, what happened was when
19 Cindy took our customers over to Blade, we ended
20 up flying fewer people on flights just to keep
21 those passengers, just to keep the customers
22 with us. Our minimum had always been four
23 people and we ended up flying with one or two
24 passengers because we had to now compete with
25 Blade and with Cape.

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1 A. Collingwood

2 Q My question is about loads. Do
3 you know how Shoreline's load in 2017 compared
4 to 2018?

5 A No, I don't know.

6 Q Do you know how Shoreline's load
7 in 2017 compared to 2019?

8 A No, that's not something that I
9 would have focused on. My husband might have
10 known, but I don't.

11 Q It could be one of the reasons for
12 fewer customer revenues because you were
13 offering fewer flights, right?

14 MR. KRIEGSMAN: Objection;
15 calls for speculation.

16 A I can't answer that.

17 Q Because you don't know the amount
18 of loads?

19 A I don't. I don't know and I'm not
20 going to speculate.

21 Q Am I correct that flying an
22 aircraft is expensive for things like jet fuel;
23 is that right?

24 A Yes, that's right.

25 Q If you are flying less flights,

1 A. Collingwood

2 your costs typically go down as well, right?

3 A Not if you are flying less
4 customers because you don't have them anymore.

5 Q Do you know if you were flying
6 less flights in 2017 as compared to 2018?

7 A I don't think there was a great
8 difference in the number of flights because we
9 were trying to retain people in 2018.

10 Q But you don't have any numbers one
11 way or the other compared to whether you were
12 flying less flights in 2017 compared to 2018?

13 A I don't know, Mr. Skibell.

14 Q How about 2019, do you know if you
15 were flying less flights in 2019 as compared to
16 2017?

17 A I don't know. As I said, I wasn't
18 paying as much attention in 2019.

19 Q It's possible that even though
20 revenue went down, costs could have also gone
21 down, right?

22 MR. KRIEGSMAN: Objection;
23 calls for speculation.

A I really can't answer that.

25 MR. SKIBELL: Let's go to

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1 A. Collingwood
2 another document. Let's take a
3 quick break. I want to make sure
4 when Cindy arrives she knows where
5 to go.

6 (Recess was taken)

7 Q Ms. Collingwood, I have a few more
8 questions about the document we were just
9 looking at. I want to make sure I have this.

10 MR. KRIEGSMAN: The Amended
11 Complaint?

12 MR. SKIBELL: Yes.

13 Q Ms. Collingwood, look at 122. You
14 will see that it indicates what Shoreline's
15 damages are in this case. Do you see that?

16 A Yes.

17 Q Do you see there is a number there
18 of 1.35 million. That is for lost revenue from
19 both commuter and charter flights; is that
20 correct?

21 A We know now that it's a different
22 number. That's what we put in this document.

23 Q Well, tell me how the original
24 number was reached and tell me what the current
25 number is.

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1 A. Collingwood

2 A I don't know what the current
3 number is, we are still working on that. But it
4 was the loss of revenue from commuter flights as
5 well as charter flights that Sound would book
6 with us. That was her job with us and she was
7 no longer fulfilling that.

8 Q I want to start with the
9 1.35 million. How was that number reached?

10 A I don't --

11 MR. KRIEGSMAN: Just answer
12 the question.

13 A It's based on the numbers from the
14 previous year so the loss of revenue between
15 2017 and 2018.

16 Q My question is, what documents did
17 you look to to create the 1.35 million?

18 A Accounting figures.

19 Q Were those accounting figures all
20 commuter and charter flights, or do they include
21 just commuter and charter flights between New
22 York and East Hampton Airport?

23 A This number is based entirely on
24 what Cindy did as our broker. This is what she
25 booked as our broker.

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1 A. Collingwood

2 Q She didn't book flights in 2018,
3 correct?

4 A I'm sorry, I didn't hear that.

5 Q Ms. Herbst didn't book flights in
6 2018, right?

7 A That is correct; she did not.

8 Q I'm asking about the lost revenue
9 from commuter and charter flights. Is that
10 based on a particular number in your accounting
11 documents that breaks out revenue from flights
12 in and out of East Hampton Airport?

13 A Yes, it is on the P&L statements,
14 for example.

15 Q There's specific ones that
16 indicate the amount of revenue from East Hampton
17 Airport?

18 A Yes, it's called commuter revenue.

19 Q Is that commuter revenue just for
20 East Hampton or does it also cover Florida or
21 Bahamas or the Virgin Islands?

22 A No, it is actually Sound.

23 Q That's how you got the number
24 1.35; is that correct?

25 A Yes, that's correct.

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1 A. Collingwood

2 Q And so am I correct that profits
3 are normally revenue minus costs, right?

4 A Usually.

5 Q In this case is Shoreline seeking
6 profits, lost profits?

7 A We are seeking loss of revenue.

8 Q So you are not seeking lost
9 profits at all?

10 MR. KRIEGSMAN: Objection;
11 it calls for a legal conclusion.
12 Answer the question as best as you
13 can.

14 A It consists of 1.35 million from
15 lost revenue from both commuter and charter
16 flights.

17 Q As you sit here today do you know
18 if Shoreline lost any profits from the alleged
19 conduct of Ms. Herbst and the other defendants?

20 A Yes, absolutely.

21 Q Do you know how much lost profits
22 it had?

23 A Not specifically.

24 Q Can you identify any lost profits
25 that it had?

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1 A. Collingwood

2 version of 5 million dollars?

3 A I'm really not sure.

4 Q Were you aware that on or about
5 December 5 Mr. Kelly made a proposal to Cape Air
6 for a transaction that was a little over 6.3
7 million dollars?

8 A I wish I could say I remember, but
9 I really don't.

10 Q Do you remember that the final
11 version of the transaction was approximately 6.3
12 million dollars?

13 A That sounds about right.

14 Q The amount of money that was paid
15 by Cape Air went up from 5 million to
16 approximately 6.3 million?

17 A I can see there were different
18 proposals. I also know that the company was
19 evaluated for the ESOP at 6 million.

20 Q What do you mean evaluated for the
21 ESOP?

22 A We were working on an ESOP
23 program. John started working on that I think
24 in 2016. And you go to an audit process; you
25 know, it was very long and involved and I

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1 A. Collingwood

2 believe that it came out to 6 million that was
3 the valuation of the company.

4 Q I'm just asking about what Cape
5 Air paid. Cape Air paid approximately 6.37
6 million dollars, correct?

7 A I'm not sure. I'm not sure.

8 Q But you are aware that the final
9 price went up more than a million dollars paid
10 by Cape Air, correct?

11 A I'm wondering if the 5 million is
12 excluding the nondisclosure amount. I don't see
13 that listed here.

14 Q What is the nondisclosure amount
15 you are referring to, Ms. Collingwood?

16 A My husband and I were both paid
17 for a nondisclosure agreement.

18 Q If you look at --

19 A It's a noncompete agreement, not a
20 nondisclosure.

21 Q If you look at this, you will
22 see --

23 A I'm just seeing that here.

24 Q -- that you were paid 2 million
25 dollars not to compete. Is that what you were

Page 332

1 A. Collingwood

2 paid?

3 A I think ultimately it was 1.5.

4 Q Do you know if that was computed
5 into the final price paid by Cape Air to
6 Shoreline?

7 A I don't know. In addition to that
8 we were -- we stayed on with Cape Air. Oh, here
9 it is, I see.

10 Q Let me ask you a different
11 question. If you look back on this page, do you
12 recall that under the original version of the
13 transaction Shoreline would have paid
14 approximately 27 percent in corporate taxes?

15 A I don't know.

16 Q Would there be documents at
17 Shoreline that it did related to the different
18 versions of the transaction and the amount that
19 was received by the owners?

20 A I think you probably got those.
21 You probably got that information.

22 Q Ms. Collingwood, I'm going to tell
23 you the only documents we got on this topic was
24 produced by Cape Air, not Shoreline.

25 My question is, to your knowledge,

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1 A. Collingwood

2 do those documents exist for Shoreline?

3 A We gave you everything that we
4 had. If there are things missing, it's probably
5 because the e-mails were terminated.

6 Q Ms. Collingwood, what do you mean
7 by the e-mails were terminated?

8 A Cape Air terminated our accounts
9 so there may have been documents that you have,
10 that we may have had an in e-mail form, but once
11 Cape Air terminated them -- for instance, when
12 my husband died, his e-mail account was
13 terminated. When I was finished at Cape Air,
14 when they terminated me, they terminated my
15 e-mail. I would no longer have had access to
16 those.

17 Q Well, the documents we are looking
18 at are before the transaction between Cape Air
19 and Shoreline, correct?

20 A I'm not sure.

21 Q The analysis leading up to the
22 final version of the transaction was before the
23 transaction closed, right?

24 A I believe I have given you
25 everything that we had.

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1 A. Collingwood

2 Q My question is, wouldn't these
3 documents have been on an e-mail account for
4 Shoreline, not Cape Air?

5 A Not that I found then. I don't
6 know why you would have been given something
7 that I didn't have. We provided everything that
8 we had.

9 Q I'm going to go back to this
10 document, an e-mail from John Kelly from
11 Shoreline Aviation on or about November 26,
12 2018, to Mike Migliore.

13 A Right.

14 Q So the e-mail account at
15 shorelineaviation.com; is that one that would
16 have been terminated by Cape Air?

17 A No.

18 Q So this document would have been
19 sent from an account that was not terminated by
20 Cape Air?

21 A That's correct. I don't know why
22 you don't have it.

23 Q To your knowledge, there were
24 financial analyses done by Shoreline in
25 connection with the changed version of the

1 A. Collingwood

2 transaction?

3 A I don't know that.

4 Q Do you know if Shoreline lost any
5 money from the original version of the
6 transaction to the revised version of the
7 transaction?

8 A I'm sorry, lost any money from the
9 original transaction?

10 Q I'm asking about your damages in
11 this case, Ms. Collingwood. My question is,
12 there was an original version of the transaction
13 which is what we looked at in the letter of
14 intent, correct?

15 A Yes.

16 Q There's a later version of the
17 transaction that took place after the lawsuit we
18 were discussing was filed?

19 A Right. Initially it was a stock
20 purchase and it led to an asset purchase. Is
21 that what you are referring to?

22 Q Yes. Did Shoreline lose any money
23 as a result of the change in the structure of
24 the transaction?

25 A We lost the tax advantages of the

1 A. Collingwood

2 ESOP program that we had been working on.

3 Q Were those tax advantages to
4 Shoreline or to you and Mr. Kelly?

5 A I believe it was both.

6 Q Do you know if the changed version
7 of the transaction made up for any tax losses to
8 you and Mr. Kelly or to Shoreline?

9 A Yes, it did.

10 Q One of the reasons that Cape Air
11 paid more money is because you were going to
12 lose the tax benefits of the ESOP, right?

13 A I believe, and I'm not positive
14 about this, that it also provided tax advantages
15 to Cape Air.

16 Q One of the reasons Cape Air wanted
17 to move forward with the transaction was to make
18 up for the loss of the tax benefits of the ESOP,
19 right?

20 A I believe they made an adjustment
21 based on that, but it didn't compensate for what
22 we lost having to give up the ESOP.

23 Q How much did you lose having to
24 give up the ESOP relative to the increased money
25 paid by Cape Air?

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1 A. Collingwood

2 A I was told by the attorney and I
3 believe by our CPA that we would have had tax
4 advantages over a ten-year period in the amount
5 of over 3 million dollars.

6 Q Was there anything stopping
7 Shoreline from setting up an ESOP after the
8 transaction took place with Cape Air?

9 A The stop of the ESOP was Cindy's
10 lawsuit.

11 Q Did Cape Air also have an ESOP?

12 A Yes, they did.

13 Q Did you participate in the Cape
14 Air ESOP after the transaction?

15 A Not willingly, but yes.

16 Q Why do you say "not willingly"?

17 A They just set me up for it.

18 Q Did you receive tax benefits from
19 that?

20 A Not that I'm aware of. It was --
21 we are not talking thousands of dollars here.

22 Q Do you know if there was any final
23 analysis of any tax losses to Shoreline from the
24 original version of the transaction to the
25 changed version of the transaction?

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1 A. Collingwood

2 message. Is this between Steven Pilla and John
3 Kelly?

4 A It appears to be.

5 Q Do you have an understanding of
6 what this conversation is about here?

7 A Steve is telling John that Cindy
8 is videotaping our staff, and that he wants to
9 make sure we are not booking flights because it
10 has something to do with their divorce.

11 Q He says he doesn't want -- I
12 believe he means caught, but it is spelled
13 cough. It is caught. He says he doesn't want
14 any people caught on video doing so; is that
15 right?

16 A Yes. We were told earlier in the
17 season that we could not sell computer or
18 charter seats or flights because of their
19 divorce agreement.

20 Q When were you told that?

21 A Earlier in the season. I think
22 after the first day that we were behind Steve's
23 counter. We were told we could not do that
24 anymore and that we could not book any flights.

25 Q Were you told that before you

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1 A. Collingwood

2 started behind Mr. Tuma's counter?

3 A Not that I'm aware of.

4 Q Did Mr. Tuma communicate to you at
5 or around that time about the stipulation in the
6 divorce decree?

7 A He had a conversation with my
8 husband about it.

9 Q After that conversation Shoreline
10 instructed people not to be caught on video?

11 A No. No. We told them not to book
12 flights, not to not be caught on video.

13 Q You told people that they could
14 call the office, Shoreline's office?

15 A That's correct.

16 Q Do you know if persons
17 communicated to passengers that they should call
18 the office to book flights?

19 A It may have been. I wasn't there.

20 Q This direction was to people that
21 were checking in customers at SAFE's spot in the
22 East Hampton Airport?

23 A Can you repeat that?

24 Q Yes. Shoreline's instruction to
25 only check people in and to tell people to call

Page 341

1 A. Collingwood

2 the office for booking, that was instructed to
3 people that were at the SAFE spot in the East
4 Hampton terminal?

5 A They were on the other side of
6 the counter, but our staff would tell people --
7 they would either take their name and say,
8 We will call you at the office or ask them to
9 call the office directly to book their
10 flights.

11 Q What do you mean by "other side of
12 the counter"? I want to make sure I understand
13 that.

14 A I'm sorry?

15 Q What did you mean by "other side
16 of the counter"?

17 A Well, initially the first time we
18 were over there we were behind Steve's counter,
19 and then we were told that we could not do that
20 and so we were outside of the counter.

21 Q For how long were you outside of
22 the counter?

23 A I believe the summer.

24 Q If I understand correctly,
25 Shoreline instructed its employees that were